

# **EXHIBIT 3**

1  
2 IN THE UNITED STATES DISTRICT COURT  
3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 -----X  
H. CRISTINA CHEN-OSTER; LISA  
5 PARISI; and SHANNA ORLICH,  
6 Plaintiffs, 10-CV-06950 (LBS)  
7 VS.  
8 GOLDMAN, SACHS & CO. and THE  
GOLDMAN SACHS GROUP, INC.,  
9 Defendants.  
10 -----X

11  
12 VIDEOTAPED DEPOSITION  
13 OF  
14 WAYNE CASCIO  
15 New York, New York  
16 Saturday, November 16, 2013

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18  
19 Reported by:  
AYLETTE GONZALEZ, CLR, RPR  
20 JOB NO. 67857  
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<p style="text-align: right;">Page 42</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 A. But sure, people who are on the</p> <p>3 cusp and, you know, without having to have</p> <p>4 rigid boundaries, that does give you some</p> <p>5 flexibility to move a person up or down.</p> <p>6 Q. From now on, if Counsel objects in</p> <p>7 a way that my question has been so egregious</p> <p>8 that she needs to instruct you not to answer</p> <p>9 the question, she'll do that.</p> <p>10 A. All right.</p> <p>11 Q. Otherwise, the objection is just</p> <p>12 for the record and you can go ahead and answer</p> <p>13 the question as best you can.</p> <p>14 But as I said, if you think you</p> <p>15 need more information to answer the question,</p> <p>16 let me know.</p> <p>17 So have you written about the</p> <p>18 benefits and problems with a forced</p> <p>19 distribution system?</p> <p>20 A. Sure.</p> <p>21 Q. And have you come out four square</p> <p>22 against forced distribution systems?</p> <p>23 A. No, I have not.</p> <p>24 Q. I'd like you to -- earlier, we were</p> <p>25 discussing what you do when you're not doing</p>	<p style="text-align: right;">Page 43</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 this. And you said that you are teaching a</p> <p>3 full load, correct?</p> <p>4 A. Correct.</p> <p>5 Q. If you sent a student to write a</p> <p>6 paper about forced distributions in evaluation</p> <p>7 systems and they came back with one that</p> <p>8 discussed only the research, the articles that</p> <p>9 identified problems and didn't acknowledge the</p> <p>10 utility and the benefits of a forced</p> <p>11 distribution, what kind of grade would that</p> <p>12 student get?</p> <p>13 MS. GEMAN: Objection.</p> <p>14 A. I think you need to be realistic.</p> <p>15 At least what I've tried to do in my own</p> <p>16 writing is to presents a balanced perspective.</p> <p>17 Q. And if you were serving as a jury</p> <p>18 member for one of the peer review journals,</p> <p>19 you indicated that you had done that in the</p> <p>20 past, and an article was submitted for</p> <p>21 publication that similarly refused to or</p> <p>22 failed to acknowledge the positives in a</p> <p>23 forced distribution system, what would your</p> <p>24 recommendation be?</p> <p>25 A. Usually would point that out.</p>
<p style="text-align: right;">Page 44</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 Q. And suggest maybe some revisions?</p> <p>3 A. Possibly, sure.</p> <p>4 Q. Is there anything in your report</p> <p>5 that I'm missing where you point out the</p> <p>6 positives or the research that has been done</p> <p>7 that shows the positives of a forced</p> <p>8 distribution system?</p> <p>9 A. Sure, yes. There's a paper by</p> <p>10 Steve Bates that was in the Human Resource</p> <p>11 Magazine --</p> <p>12 Q. Is that the one that's listed in</p> <p>13 the footnote number three?</p> <p>14 A. Let me see. Yes, sir. Yep.</p> <p>15 Q. And what did Mr. Bates conclude?</p> <p>16 A. I think he was trying to present a</p> <p>17 more balanced perspective.</p> <p>18 Q. I don't see any reference to the --</p> <p>19 to the benefits of that system in your report</p> <p>20 though. You cite to Mr. Bates?</p> <p>21 A. Yes.</p> <p>22 Q. Or Dr. Bates. I don't know.</p> <p>23 A. Mr. Bates, yes.</p> <p>24 Q. But I don't see any acknowledgment</p> <p>25 of the strengths of the system in your report.</p>	<p style="text-align: right;">Page 45</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 MS. GEMAN: Is that a question?</p> <p>3 Q. Am I missing it?</p> <p>4 A. Yes, I don't think I ever said that</p> <p>5 forced ranking shouldn't be used. I don't</p> <p>6 think I ever said that. I don't think I -- I</p> <p>7 think I said that there was just a lot, you</p> <p>8 know, it was a controversial issue. It's a</p> <p>9 controversial topic. It has generated a lot</p> <p>10 of academic commentary on both sides. I don't</p> <p>11 think anywhere in this report I ever said</p> <p>12 don't use forced ranking. I mean, that's a</p> <p>13 decision up to the company. That's its</p> <p>14 prerogative.</p> <p>15 Q. You also perform consulting</p> <p>16 services for employers on their employment</p> <p>17 systems, do you not, the human resources</p> <p>18 systems?</p> <p>19 A. Correct, yes.</p> <p>20 Q. Have you ever recommended one that</p> <p>21 had a forced distribution system that they</p> <p>22 eliminated?</p> <p>23 A. No, I've never been asked to do</p> <p>24 that.</p> <p>25 Q. Okay. Have you -- have you ever</p>

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1 WAYNE CASCIO (11/16/13)  
2 recommended that an employer adopt a forced  
3 distribution system of any sort?

4 A. Absolutely.

5 Q. Okay. In the next paragraph, we're  
6 talking now about the 360-degree performance  
7 review system.

8 A. Is this paragraph 24?

9 Q. 25. I'm sorry; I've moved on to  
10 25.

11 A. Okay.

12 Q. You note one recent critique which  
13 expresses some degree of skepticism about the  
14 utility of multi-rater systems. Do you share  
15 that skepticism?

16 A. I think they can be very, very  
17 valuable for some purposes. When I say I'm  
18 scepticism, I don't through the baby out with  
19 the bath water. I don't ever say you should  
20 use 360 systems. They can be very, very  
21 valuable. What I was trying to reflect was  
22 current thinking in the field about 360  
23 systems.

24 Q. Is current thinking in the field  
25 that they're less useful and even problematic?

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1 WAYNE CASCIO (11/16/13)  
2 later in the report, we'll probably talk about  
3 this at some point, you say that the  
4 perception of an individual of the subject  
5 employee's performance can vary depending on  
6 the viewer's perspective, right?

7 A. Yes, sir.

8 Q. So, that if I'm the individual's  
9 manager or the individual's manager's manager,  
10 I may have a different perspective of that  
11 individual than a subordinate of the subject  
12 employee?

13 A. Correct.

14 Q. Even in the same context, seeing  
15 the same behavior.

16 A. Correct; sure.

17 Q. All of that is valuable input,  
18 isn't it?

19 A. Absolutely.

20 Q. And your concern is that the system  
21 needs to be designed sensitively so that  
22 there's a mechanism for identifying and  
23 understanding disparate impressions of an  
24 employee doing the same tasks; is that  
25 correct?

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1 WAYNE CASCIO (11/16/13)

2 A. Under certain circumstances, they  
3 can be. And, you know, an obvious reason --  
4 an obvious reason for that is that you get  
5 feedback from very different sources and that  
6 a manager, usually the immediate manager, is  
7 ally the person that has to convey the results  
8 of the 360 feedback. And sometimes, it's  
9 pretty hard to integrate all of that feedback  
10 into coherent themes when people might have  
11 had very, very different perspective and  
12 commentary about an individual's performance.

13 Q. Let's talk a little bit about the  
14 purpose the multi-rater design, the 360  
15 design.

16 As I understand it, the purpose is  
17 to obtain feedback on the subject employee  
18 from a variety of different constituencies  
19 that may have seen the employee perform --  
20 doing different tasks or doing the same tasks  
21 in a different context so that you get a  
22 better rounded view of the employee's  
23 performance; is that right?

24 A. Yes, sir.

25 Q. And so, if you're -- and I think

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1 WAYNE CASCIO (11/16/13)

2 A. It's far more than that.

3 Q. Tell me what I've left out.

4 A. The key issue for me and this --  
5 there's two issues. One of them is I tried to  
6 -- I had a citation in here from probably the  
7 leading textbook on compensation, 2013  
8 textbook that says today, 360s are not used  
9 very much for compensation purposes. Heavily  
10 used for developmental purposes, to help  
11 people get better. So, I was just trying to  
12 reflect current practice in that it's not  
13 wrong to use it for -- let me be clear; it's  
14 not wrong to use it for compensation purposes.  
15 It's just that very few companies are doing  
16 that now.

17 And so, my concern was -- was  
18 really, you know, the purpose of the 360 and  
19 I'm not saying it's wrong to use it for  
20 compensation purposes, let's be clear about  
21 that, but the major considerations, major  
22 concern that I have is the lack of the  
23 requirement for a uniform composition of the  
24 rater group.

25 Q. Okay. Let's talk about that.

13 (Pages 46 to 49)

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1 WAYNE CASCIO (11/16/13)

2 A. I guess.

3 Q. Both a J.D. and Ph.D.

4 Dr. Malos comments that the absence  
5 of all of these safeguards is generally in our  
6 favor; is that correct?

7 A. Where does he say that?

8 Q. Starting on -- there are no page  
9 numbers on this. Just above the table, under  
10 the heading "Cases involving procedural  
11 aspects of performance evaluation" -- or  
12 "performance appraisal," a sentence that  
13 starts on that page?

14 A. Okay, I see it.

15 Q. Continues over to the next.

16 A. I see it.

17 Q. Very oddly formatted?

18 A. Seems like there's some text  
19 missing or something.

20 Q. I think it ends here and continues  
21 over to here.

22 MS. GEMAN: Are you asking him if  
23 that's what the sentence says?

24 A. Oh, I see, okay.

25 MS. GEMAN: I'm sorry, what's the

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1 WAYNE CASCIO (11/16/13)

2 question?

3 Q. You see the sentence I'm referring  
4 to?

5 A. Yes.

6 Q. Is that consistent with your  
7 understanding?

8 MS. GEMAN: Objection; calls for a  
9 legal conclusion.

10 A. In the part where he says "the  
11 absence of such safeguards"?

12 Q. Yes.

13 A. Generally, has not been fatal to  
14 the employer, yes, I think it says what it  
15 what -- the document speaks for itself.

16 Q. I'm asking whether that's a  
17 conclusion that you agree or disagree with?

18 MS. GEMAN: Same objection.

19 A. He reviewed the case law, I didn't,  
20 you know.

21 Q. Well, I mean you've written  
22 articles about the case law and its  
23 application in this field, haven't you?

24 A. Of course, but the case law changes  
25 every year.

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1 WAYNE CASCIO (11/16/13)

2 Q. Is it your understanding of the  
3 case law, however recent it is, that that  
4 statement is true?

5 MS. GEMAN: Objection.

6 A. I would just say based the case law  
7 that he analyzed or that he reviewed, this is  
8 his conclusion, I don't have any reason to  
9 doubt it.

10 Q. Okay. So did you select the three  
11 items that appear at the end of paragraph 55  
12 from the list that Dr. Malos had?

13 A. These were -- these were three  
14 items that I felt were deficiencies in the  
15 system, okay.

16 Q. Well, actually the prior sentence  
17 says that researchers have identified several  
18 safeguards and then you identify just three of  
19 them there?

20 A. Correct.

21 Q. They happen to be the three that  
22 you found deficient at Goldman Sachs?

23 A. Sure.

24 Q. You don't identify any of the  
25 factors that you found to be present,

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1 WAYNE CASCIO (11/16/13)

2 satisfied?

3 A. I didn't list the whole nine, the  
4 list of nine.

5 Q. Do you have an expert opinion to  
6 offer in this case, that failing to give  
7 employees access to review their appraisal  
8 results has a disparate impact on women?

9 MS. GEMAN: Objection.

10 A. I do not.

11 Q. Do you have an expert opinion to  
12 offer in this case that failing to provide  
13 thorough and consistent documentation across  
14 raters, that includes specific examples of  
15 performance based on personal knowledge, has a  
16 disparate impact on women?

17 MS. GEMAN: Objection.

18 A. I can't say that that caused any  
19 disparate impact, that's for sure.

20 Q. Number three, do you offer here an  
21 expert opinion that the item here, there must  
22 be a system to detect potentially  
23 discriminatory effects or abuses of the  
24 overall system resulted in gender differences  
25 in compensation or evaluation at Goldman

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the way to do it. That we know for sure. A lot of research on that. Forced distributions are antithetical to teamwork and cooperation.

Q. 360 is a pretty good tool to foster teamwork, isn't it?

A. Yes, sir, yes.

Q. So, the problem you're identifying here is within group rather than across groups, you're concerned about individuals who are either in high-performing groups that get stuck at the bottom or at low-performing groups that unfairly get bumped up to the top?

A. Yes, sir.

Q. That problem is ameliorated the larger the group gets, correct?

A. Well, it's all -- yes, but -- I mean yes, that's true, but there are limits and, you know, as far as ranking goes, we have a lot of evidence to indicate that once a group exceeds about 10 to 15 people, it's just not possible for managers to rank them reliably.

Q. Do you have an expert opinion to offer in this case on the size of the groups

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at Goldman Sachs?

A. No, sir, I don't.

Q. Let's talk a little bit about potential.

A. Okay.

Q. This is paragraph 63. It's actually in several places. We talked at the very beginning of the day about the understood meaning of the term similarly situated in your field; is there a similarly understood term of a meaning potential in your field?

A. I don't believe that's true. Cases where I've used it in my own work, it's typically with reference to some specific outcome, so for example, if a firm was doing a downsizing and one of the factors that is being considered is the potential people have to help the firm reach its strategic objectives, it's very clear with respect to objective 1, 2 and 3, people are rated against each one of those to determine what potential means in that context.

Q. So, in your experience, it's quite common for employers to rate employees on

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potential; isn't that right?

A. It's been a very difficult -- it's very difficult. I've had experience with this over the years in a variety of context and my experience with -- there's nothing wrong with trying to rate potential, but I think you need to be clear about what you or a firm, an organization needs to be clear about what it means by potential, can it anchor it to any specific outcomes. And that's why I was using the example of the downsizing and I can anchor that specifically to strategic objectives that the firm was trying to hit in the next three to five years.

Q. In paragraph 33, you say that there's no standard definition of potential; is it your suggestion that there should be one definition of potential that would be used for all of the employees being rated?

A. There is no standard definition of potential, that's true, and potential could mean different things in different context and I was trying to say that just as with any other factor that people are being rated on,

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there's got to be clear definition of it and it's got to be anchored in some way, such as the ability to hit strategic objectives in three to five years, that's not the only way, but it's one way.

Potential has been a very -- it's a slippery concept. It's hard to get your arms around it. It's kind of the sort of thing where frequently people will say I'll know it when I see it kind of thing.

Q. That's not the case here though?

A. I don't know if it's the case here. It's not defined. I mean, it's defined as some indicators, but that's it.

Q. Well, I'm looking again at Exhibit 4, page 355, it's the one "Manager's toolkit".

A. Okay. I see it.

Q. Okay.

A. Yes.

Q. There's a relatively -- to my eyes, looks a relatively extensive definition of potential there, maybe you could tell me what's lacking, what would you add?

42 (Pages 162 to 165)



<p style="text-align: right;">Page 178</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 Q. Do any of them --</p> <p>3 MS. GEMAN: I'm sorry. I was</p> <p>4 going to say I think we've been going</p> <p>5 more than an hour.</p> <p>6 MR. MOLLEN: Yes, I will in just a</p> <p>7 moment, very shortly.</p> <p>8 Q. Do any of the employers with whom</p> <p>9 you consult produce that kind of statistical</p> <p>10 rabbit trail for individuals to reconstruct</p> <p>11 after the fact?</p> <p>12 MS. GEMAN: Objection;</p> <p>13 argumentative.</p> <p>14 A. Frequently particularly in --</p> <p>15 Q. I'm sorry, I am interrupting you</p> <p>16 and I apologize for this but I meant to</p> <p>17 qualify that. I know you do a lot of public</p> <p>18 sector work. I'm only interested in private</p> <p>19 sector employers.</p> <p>20 A. I was going to say particularly in</p> <p>21 downsizing decisions, that kind of information</p> <p>22 is very important.</p> <p>23 Q. Okay. So a couple of times, you've</p> <p>24 referred to the use of potential in a</p> <p>25 downsizing context; when potential is used as</p>	<p style="text-align: right;">Page 179</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 an evaluative element outside of a downsizing</p> <p>3 context, as part of the routinized evaluation</p> <p>4 process, are you familiar with any employer</p> <p>5 who does what you suggest they should do with</p> <p>6 it?</p> <p>7 A. No. All I can say is that in this</p> <p>8 case, I mean my only point was that in this</p> <p>9 case, we simply can't tell how much weight</p> <p>10 potential carried and ultimately assigning a</p> <p>11 quartile. We don't know, because there was</p> <p>12 such apparent variability in how individual</p> <p>13 managers interpreted potential, we don't know</p> <p>14 what they had in mind.</p> <p>15 Q. Aren't there downsides to sharing</p> <p>16 potential information with employees?</p> <p>17 A. That comes up all the time in the</p> <p>18 leadership succession issue and the question</p> <p>19 is you can have -- it's certainly appropriate</p> <p>20 to share information about potential, but not</p> <p>21 to promise a specific job.</p> <p>22 Q. But aren't there problems that you</p> <p>23 generate by telling somebody this is how we</p> <p>24 view your potential?</p> <p>25 MS. GEMAN: Asked and answered.</p>
<p style="text-align: right;">Page 180</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 A. I think it's actually the reverse</p> <p>3 and I mean, I have lots of examples of</p> <p>4 companies that didn't tell people that --</p> <p>5 particularly, I'm thinking of one in</p> <p>6 particular, high powered women, that they</p> <p>7 thought that these women had a future at the</p> <p>8 place and when they contacted them a year</p> <p>9 later after they had left, something like</p> <p>10 90 percent of the women said nobody ever told</p> <p>11 us, we thought we had a future. So sharing</p> <p>12 that information seems to me to be pretty good</p> <p>13 management practice.</p> <p>14 Q. When you've got employees who are</p> <p>15 doing high quality work in their current jobs,</p> <p>16 but your view is that they're unlikely to take</p> <p>17 on larger roles in the future, if you</p> <p>18 communicated to them, don't you think you</p> <p>19 increase your turnover?</p> <p>20 A. I think it depends on how you frame</p> <p>21 it. There's a lot of people who don't want to</p> <p>22 move up, happy doing what they're doing.</p> <p>23 Technical specialist, for example, many of</p> <p>24 them don't want to go into general management</p> <p>25 and they're delighted that people recognize</p>	<p style="text-align: right;">Page 181</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 the value that they had and the jobs that</p> <p>3 they're currently doing.</p> <p>4 So it's not that they don't have --</p> <p>5 they may not have potential for higher level</p> <p>6 jobs, because they don't want it, but they've</p> <p>7 got great potential in the jobs that they're</p> <p>8 currently in. They want you to be around for</p> <p>9 a long time.</p> <p>10 MR. MOLLEN: Why don't we go ahead</p> <p>11 and take a break.</p> <p>12 THE VIDEOGRAPHER: 2:26. We're</p> <p>13 off the record.</p> <p>14 (Whereupon, an off-the-record</p> <p>15 discussion was held.)</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 2:58 p.m. We're on the record.</p> <p>18 BY MR. MOLLEN:</p> <p>19 Q. All right. Dr. Cascio, if you'd</p> <p>20 look back at paragraph 55. This is where you</p> <p>21 identify the three elements of procedural</p> <p>22 justice that you found lacking?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Are you offering an expert opinion</p> <p>25 that the absence of any one of those items</p>

<p style="text-align: right;">Page 182</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 would have -- would result in gender bias or</p> <p>3 gender differences?</p> <p>4 A. I am not.</p> <p>5 MS. GEMAN: Objection.</p> <p>6 A. I am not.</p> <p>7 Q. Now, earlier, remember we had the</p> <p>8 exchange of Goldman Sachs tells the employees</p> <p>9 they're in one of three buckets as opposed to</p> <p>10 the quartile. And as I understand it, you</p> <p>11 said that the difference between three and</p> <p>12 four wasn't material. Your concern was that</p> <p>13 when it's communicated, that there actually is</p> <p>14 some sort of more fulsome communication with</p> <p>15 the employee?</p> <p>16 A. Can I just ask you a clarification?</p> <p>17 Q. Sure.</p> <p>18 A. Because you said the three buckets,</p> <p>19 would this be the manager's statement about</p> <p>20 lower, higher --</p> <p>21 Q. Yes. I think it's paragraph 36 in</p> <p>22 your report. 35, 36, somewhere around there.</p> <p>23 Yes. Yes. It's 35G1i.</p> <p>24 A. Okay. Good. Yes.</p> <p>25 Q. Before I ask you that question, let</p>	<p style="text-align: right;">Page 183</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 me go back to the prior one, just because I</p> <p>3 think I asked it inartfully.</p> <p>4 I asked you whether the absence of</p> <p>5 one of the three protections that you</p> <p>6 identified in paragraph 55 would result in</p> <p>7 gender bias, whether you were offering an</p> <p>8 expert opinion in that and you said no.</p> <p>9 Would the absence of all three of</p> <p>10 those, are you offering an expert opinion that</p> <p>11 the absence of all three of those would have</p> <p>12 resulted in gender differences at Goldman</p> <p>13 Sachs?</p> <p>14 MS. GEMAN: Objection.</p> <p>15 A. I mean we can't say that -- you</p> <p>16 know, just as the original source that you</p> <p>17 cited said that, you know, absence of one or</p> <p>18 more of these is not fatal for an employer, so</p> <p>19 you really can't say. What we can say is good</p> <p>20 practice would include these. It may have</p> <p>21 reduced impact. We just don't know.</p> <p>22 Q. So, now I'm on 35G1i and you see</p> <p>23 there where the question was about</p> <p>24 communicating performance quartile. The</p> <p>25 answer was generally that's not shared, but we</p>
<p style="text-align: right;">Page 184</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 tell them at par, below par, above par; you</p> <p>3 see that?</p> <p>4 A. I see it.</p> <p>5 MS. GEMAN: Objection; misstates</p> <p>6 the document.</p> <p>7 Q. So, now we're going to move, when</p> <p>8 we have that exchange, my recollection is that</p> <p>9 your concern wasn't about the difference</p> <p>10 between communicating three buckets versus</p> <p>11 four, which I think you said was not a</p> <p>12 material difference, but you were concerned</p> <p>13 that the communication might not be as robust</p> <p>14 or as full about the employee's -- why they</p> <p>15 were placed there; is that right?</p> <p>16 MS. GEMAN: Objection.</p> <p>17 A. My concern was that some employees</p> <p>18 get that communication and others don't. It</p> <p>19 was one aspect, yes, okay.</p> <p>20 Q. And then was there substantive</p> <p>21 aspect about what was communicated or maybe I</p> <p>22 misunderstood you?</p> <p>23 A. No, I mean the point that I was</p> <p>24 making --</p> <p>25 MS. GEMAN: Sorry. Objection;</p>	<p style="text-align: right;">Page 185</p> <p>1 WAYNE CASCIO (11/16/13)</p> <p>2 misstates -- misstates facts,</p> <p>3 misstates the document, about what was</p> <p>4 communicated.</p> <p>5 Q. Okay. You can answer.</p> <p>6 A. What I was objecting to was the</p> <p>7 fact that on an ad hoc basis, some people may</p> <p>8 get that, that information. If you're asked</p> <p>9 what quartile am I in, this is how you answer,</p> <p>10 all right. And the deposition testimony</p> <p>11 indicated that's certainly not true across the</p> <p>12 board in all cases, for all individuals. And</p> <p>13 my point simply is if some individuals get</p> <p>14 this information and other people don't,</p> <p>15 that's one potential problem right there</p> <p>16 because that's inconsistent treatment of</p> <p>17 people and secondly, if the manager doesn't</p> <p>18 have to communicate this information to an</p> <p>19 employee unless asked directly, if you don't</p> <p>20 have to communicate it, you don't have to</p> <p>21 defend it and the employee doesn't have an</p> <p>22 opportunity to question it or to offer</p> <p>23 additional information that might change the</p> <p>24 manager's view.</p> <p>25 Q. When you -- when you determined</p>



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1 WAYNE CASCIO (11/16/13)

2 Q. You -- earlier you said that  
3 Dr. Farber gave you some tables, that you  
4 received some tables --

5 MS. GEMAN: Misstates testimony.

6 Q. -- from Dr. Farber, am I right  
7 about that?

8 MS. GEMAN: Misstates testimony.

9 A. I did receive several tables from  
10 him.

11 Q. Are the tables -- do you know  
12 whether the tables that you received from him  
13 are the ones that are in his final report?

14 A. I believe they are.

15 Q. In your examination of the record  
16 in this case, did you find any evidence that  
17 suggested that the policies and practices that  
18 we've been discussing here today were  
19 implemented or designed by Goldman Sachs with  
20 an intent to discriminate against women?

21 MS. GEMAN: Objection; calls for a  
22 legal conclusion, compound, vague.

23 A. I mean it does call for a legal  
24 conclusion and my layperson's conclusion is  
25 that they were not.

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1 WAYNE CASCIO (11/16/13)

2 A. I know it was. I know.

3 MS. PALUMBO: Why don't we take  
4 five minutes and we'll be back.

5 THE VIDEOGRAPHER: The time is  
6 4:08 p.m. We're off the record.

7 (Whereupon, an off-the-record  
8 discussion was held.)

9 THE VIDEOGRAPHER: The time is  
10 4:22 p.m. We're on the record.

11 MR. MOLLEN: I'm done. We have no  
12 further questions.

13 THE WITNESS: Did you have a  
14 question for me?

15 MS. GEMAN: Did you want to  
16 clarify something? I'm confused now  
17 about where we --

18 MR. MOLLEN: The state of play  
19 currently is that Dr. Cascio corrected  
20 what he believed to be an erroneous  
21 answer and we went and looked at the  
22 transcript. We don't believe we have  
23 any follow-up on that. As far as  
24 we're concerned, we're done.

25 MR. KLEIN: He was going to

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1 WAYNE CASCIO (11/16/13)

2 Q. Okay.

3 A. They were not.

4 MR. MOLLEN: That's all I have.

5 MS. GEMAN: Did you say you wanted  
6 to -- I believe Dr. Cascio told us  
7 during the break that there's  
8 something he wanted to clarify.

9 A. Just a couple of things I wanted to  
10 clarify. One of them was the example you gave  
11 me of the -- and I'm trying to remember the  
12 specifics, but it was the MIT technical  
13 specialist, right, versus somebody else who's  
14 working in a managerial capacity and servicing  
15 high level managers; all I wanted to say was  
16 that I interpreted the technical specialist to  
17 be somebody who's an IT and not in a revenue  
18 producing job and that that's why I suggested  
19 that those are not similarly situated.

20 Q. Okay. Okay. Was that the only --

21 A. Yes, that was the only.

22 Q. -- clarification?

23 A. That's the only thing I had.

24 Q. I'm trying to remember the  
25 hypothetical, that was a long time ago.

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1 WAYNE CASCIO (11/16/13)

2 supplement his answer to the last  
3 point about the policies and  
4 practices, not discriminating.

5 THE WITNESS: Yes, I mean, I don't  
6 want to use a legal term, but facially  
7 neutral, they seemed that way on their  
8 face, seemed neutral and not designed  
9 to single out either gender, special  
10 treatment. The only point I would  
11 make is it's the effects of those  
12 policies year after year after year  
13 that compound, the effects in terms of  
14 compensation recommendations and it's  
15 the underpayment year after year after  
16 year that compounds, that leads to  
17 pretty serious state of inequity by  
18 the end of year ten or something.

19 BY MR. MOLLEN:

20 Q. And those year after year  
21 disparities are the disparities identified by  
22 Dr. Farber, correct?

23 A. Correct, yes, sir.

24 MR. MOLLEN: We're done.

25 MR. KLEIN: Okay, perfect.

50 (Pages 194 to 197)